



Fact Sheet

Summary

The U.S. Environmental Protection Agency (EPA) is proposing water quality standards that establish a federal antidegradation policy and implementation methods for high-quality waters in the Commonwealth of Kentucky. High quality waters are defined as waters whose quality is better than that necessary to support fish, shellfish, and wildlife and recreation in and on the water. If EPA adopts this proposal as final, Kentucky will have to conduct more reviews of the need for new or increased discharges to high quality waters.

Background

- EPA's water quality standards regulations require that states adopt an antidegradation policy and identify implementation methods for the protection of (1) existing uses, (2) high quality waters and (3) outstanding national resource waters. The high quality water provisions of EPA's regulation require that the state-adopted antidegradation provisions maintain and protect the quality of high quality waters unless the state determines that lower water quality is necessary to support important economic or social development.
- In August 1997 and in August 2000, EPA Region 4 disapproved Kentucky's high quality waters provisions because the Commonwealth only applies its high quality water protections to its "exceptional" waters category, a category which represents less than 2 percent of the Commonwealth's rivers. However, Kentucky's 1998 305(b) Report shows that approximately 67 percent of the Commonwealth's waters are candidates for high quality water protection.
- When the Agency disapproves a state or tribal water quality standard, and the state or tribe does not make appropriate changes within 90 days, EPA's Administrator must promptly propose and promulgate revised standards.
- If Kentucky revises its antidegradation provisions to address EPA's disapproval, the Agency will not finalize the federal proposal. If Kentucky revises its antidegradation provisions after EPA promulgates this rule, EPA will withdraw its rule.

About this proposed regulation

- EPA's proposal to protect high quality waters in Kentucky:
 - (1) requires Kentucky to maintain and protect the quality of high quality waters consistent with the Clean Water Act (CWA);
 - (2) defines high quality waters as any surface water identified by the Commonwealth whose quality is better than that needed to support fish, shellfish, and wildlife and recreation in and on the water;
 - (3) identifies the process for assessing the need to lower the quality of high quality waters to include:
 - providing for public participation and intergovernmental coordination,
 - evaluating the need for the discharge in light of effective pollution prevention alternatives, enhanced treatment techniques, or other alternatives that would further limit the extent to which water quality is lowered, and
 - determining that lower water quality supports important ecological, public health, or economic benefits.

Environmental and Public Health Benefits

- The high quality waters provisions of the antidegradation policy provide important environmental and public health benefits. A state must weigh alternatives and economic and social benefits before it can lower water quality in a high quality water. This process allows the affected public to comment on the benefits of maintaining high water quality versus the benefits of allowing a new or increased discharge.
- Kentucky has always made the protection and maintenance of beneficial aquatic uses for surface waters a top priority. EPA's proposal maintains that protection while also allowing continued development to support local social and economic needs.

Technical Information

- Antidegradation reviews usually occur when a new or increased discharge is requested under the National Pollutant Discharge Elimination System (NPDES) permit program. Kentucky is authorized to issue these permits and does so through the NPDES program.
- Because EPA believes that the Commonwealth's existing intergovernmental coordination and public participation processes well serve decision-making for high quality waters, EPA is not proposing additional provisions for this purpose.

Cost of the Regulation

- The annual cost of this rule could range from \$127,000 to \$3,000,000. These costs result from dischargers having to submit a request for a new or increased discharge to a high quality water and the Commonwealth having to review dischargers' requests.
- The proposal would increase the number of waters eligible for high quality water protections and might increase the number of antidegradation reviews.
- Any costs for additional treatment based on Kentucky's implementation of the proposal will result from the Commonwealth's consideration of an applicant's proposal, reasonable alternatives to the proposal, and public participation in Kentucky's decision process.

How to Get Additional Information

- EPA has established an official public docket for this action with the ID No. OW-2002-0022. You can view the material from 9:00AM to 3:30PM, Monday through Friday, at the Water Management Division, EPA, Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, 30303-3104. Ask for Water Quality Standards for Kentucky OW-2002-0022.
- You can also find the Federal Register document on the EPA Internet at <http://www.epa.gov/fedrgstr/>. You may use EPA's electronic docket at <http://www.epa.gov/edocket/> to submit or view public comments. Refer to the Federal Register notice for instructions on submitting comments.
- EPA will hold a public hearing on this proposal on January 23, 2003 from 2:00 PM to 5:00 PM and from 7:00 PM to 9:00 PM at the Capital Plaza Convention Complex, 405 Mero Street, Frankfort, Kentucky. If you need special accommodations, including wheelchair access or sign language interpreter, contact Fritz Wagener (404/562-9267) at least 15 business days before to the meeting so that we can make appropriate arrangements.